

MIAMI BEACH

Presentations & Awards/City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive

September 17, 2014

Mayor Philip Levine
Vice-Mayor Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Edward L. Tobin
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

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Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date, which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

Meeting called to order at 5:03:11 p.m.

Pledge of Allegiance lead by Police Captain Rick Clemmens.

6:33:15 p.m.

Rafael E. Granado, City Clerk, announced that Item C7C was separated by Mayor Levine.

ADDENDUM MATERIAL 1:

C4E C7C

ADDENDUM MATERIAL 2:

R9F

SUPPLEMENTAL MATERIAL 1:

C2A Memorandum
C7A Memorandum & Resolution
C7B Resolution
R5A Ordinance
R7F Resolution
R7G Memorandum

ADDENDUM AGENDA**6:33:15 p.m.**

ACTION: Motion made by Vice-Mayor Grieco to add items C4E, C7C and R9F to the Commission Agenda; seconded by Commissioner Weithorn; Voice-vote: 6-0; Absent: Commissioner Wolfson.

CONSENT AGENDA:**6:34:00 p.m.**

Motion made by Commissioner Weithorn; seconded by Vice-Mayor Grieco to approve the Consent Agenda except separated item C7C. Voice-vote: 6-0; Absent: Commissioner Wolfson.

Presentations and Awards**5:49:33 p.m.**

PA1 Certificates Of Completion To Be Presented To The City Of Miami Beach Neighborhood Leadership Academy Graduates For Spring 2014.
(City Manager's Office)

ACTION: Certificates presented to Brian Harris, Carmen Roberto, Chichi Pierce, Chris Menke, Christine Meland, CJ Lewis-Vaccarezza, Dennis Mouyios, Gabriela Provenzano, Gloria Delrio, Howard Weiss, Irene Rodriguez, Jose Jorge-Calderon, Karin Von Arx, Kevin Doran, Maurice Goodbeer, Megan Lyons, Norma Ross, Pablo Lucero, Patricia Henao, Raymond Lissenden, Richard Sperber, Robin Mitchell, Robin Christian, Sonia Navarro, Sonny Bayer, Sonny Bayer, Tito Espeleta, Victor Manrique, Mark Samuelan, Betty Pollak, Laura Dominguez and Dennis Mouyios.

Jimmy L. Morales, City Manager, stated that everyone is familiar with the tremendous Leadership Academy program this City has in place now for about thirteen or fourteen years. He explained how it works, and added that this is the 26th session of the academy. There have been over 900 alumni who post-graduation serve the City on evaluation committees, and about forty percent of all the board/committee members consist of graduates from the Leadership Academy. He thanked Caroline DeFreze who is the spirit of this program and is very dedicated. This is a real commitment that people make, and he hopes these graduates continue to be involved in the City and the community.

Mark Samuelan stated that he is honored to speak on behalf of the graduating class. He explained that this is a wonderful program and a great example of good government, and thanked the City Commission for their support. He recognized City Manager Jimmy L. Morales and his entire team because department heads took the time to educate them on what the City is doing. Mr. Samuelan emphasized that the department heads would bring their departmental team to the class, and these employees were volunteered their time to attend. He recognized Caroline,

DeFreze who kept the class on track and they acknowledge her for everything she did. Mr. Samuelan congratulated the entire group of thirty, they learned from each other and built relationships and they will be active in the alumni association.

5:55:13 p.m.

- PA2 Medal To Be Presented To Ms. Rachel Gologorsky For Winning The North American Youth Chess Championship And Being Awarded The Title Of Chess Master.
(Requested by Mayor Philip Levine)
(Deferred from July 30, 2014)

ACTION: Medal presented.

Mayor Levine stated that he read an article about Rachel Gologorsky and was so impressed that he decided to honor Ms. Gologorsky, because she represents the best of Miami Beach. Ms. Gologorsky was awarded the title of Chess Master during the 2014 North America Youth Chess Championship in New York City. She has been the number one ranked Chess Player in Florida and in the United States for the past three years, and number fifteen in the entire world. He congratulated Ms. Gologorsky for her accomplishments and for representing our country so well. Mayor Levine presented Ms. Gologorsky with a medal of honor.

Ms. Gologorsky is honored to receive this award and proud to represent the City of Miami Beach and the State of Florida during her competitions.

5:30:42 p.m.

- PA3 Proclamation To Be Presented In Honor Of Hispanic Heritage Month (September 15 - October 15, 2014).
(City Manager's Office)

ACTION: Proclamation presented.

Frank Trullenque, Chair of Hispanic Affairs Committee, congratulated the City Commission and City Manager Morales for their efforts in promoting diversity in our community. He stated that this marks the beginning of the Hispanic Heritage Month, and many wonderful things are happening. He thanked LiveNation for giving them tickets to Hispanic concerts. These tickets will be given away to the community throughout Hispanic Heritage Month, which is September 15 through October 15. Mr. Trullenque encouraged everyone to come to the North Shore Open Space Park on October 10, for the Hispanic Heritage Festival with Food trucks and live music. He added that Orgullo is having another festival as well. He added that Miami Beach is a wonderful place to live and has become the capital of greatness with all these events. He recognized the members of the Hispanic Affairs Committee who work very diligently all year long to ensure that they have great programs, which put out the word on Hispanic culture.

Mayor Levine announced that the proclamation will be presented at the Hispanic Heritage Festival on October 10.

Frank Trullenque, Chair of Hispanic Affairs Committee, explained that at the event they will be honoring several Hispanic individuals that have done a wonderful job in different areas such as public safety, education and arts during the year. He repeated that the Hispanic Heritage Festival would be October 10 at the North Shore Park.

5:05:33 p.m.

PA4 Certificates Of Recognition To Be Presented To Miami Beach Police Detective Jenny Velasquez, US Attorney Vanessa Johannes, Miami-Dade School Board Sergeant Bradley Rosh And Homeland Security Special Agent Timothy Devine For Their Investigation And Ultimate Conviction In The "Floor Baby Child Abuse And Pornography Case."
(Requested by Commissioner Edward L. Tobin)

ACTION: Certificates presented. A medal of honor was presented to Detective Velasquez.

Mayor Levine recognized Representative David Richardson in the audience, Tony Lima from Save and Judge Wolfson in the audience.

Commissioner Tobin stated that Miami Beach has an unbelievable Police Department, and a great cooperative relationship with other agencies. He spoke about a horrible child abuse case that started out with a search warrant on Marseilles Drive, where the Miami Beach Police Department uncovered child pornography and the finding was distributed throughout the nation. Our agency, Federal agencies and School Board agencies hunted down the perpetrators of a large child pornographic organization, and today they recognize Special Agent Timothy Devine from Homeland Security, Special Agent in Charge Allysa Erichs, Group Supervisor Jane Hekel, Miami Deputy Special Agent in Charge Jose Trias; and Detective Jenny Velasquez who played an incredible part on this investigation on behalf of the City. They also recognized Special Agent in Charge Paula Reid, Special Agent in Charge William Cachinero, Supervisor Angel Nazzaro and Miami-Dade School Board Police Sergeant Brad Rosh. Commissioner Tobin gave a summary of how he got involved with the Police Academy, which had been a long dream of his, and he recognized Miami-Dade School Board Chief Ian Moffett for his mentorship. He also recognized U.S. Attorney Vanessa Johannes. He called Detective Velasquez to give some background on the investigation.

Detective Jenny Velasquez explained that this case initiated in Miami Beach where they executed a Federal search warrant for the possession of child pornography on Marseille Drive. She explained that the process was very lengthy, but in short, The National Center for Missing and Exploited Children partners with Federal and local law enforcement agencies, and they sent the information recovered from the Marseilles address to the Center, and they in turned identified a series of child pornography incidents. Detective Velasquez explained that they subpoenaed information from Canada and they sent flyers nationwide and worked some leads day and night. Eventually in late March, they had a big break in the case. Tim Devine drove to Lakeland one night and ended up in Boston the next day, where they identified the perpetrator. The infants were rescued and the perpetrator is now in prison. She thanked everyone who supported them on this case. Due to this investigation, they have identified four other victim children, so leads are still coming in. The perpetrator is in jail, and they have recovered four kids from this investigation. She recognized the Special Victims Unit, Attorney Johannes and members from the Miami Police Forensics. The important thing about these cases is that there are no jurisdictional boundaries; it is a national task force that works very closely together.

Mayor Levine stated that the entire City Commission is proud, honored and thankful for everything that was done, and he personally thanked Commissioner Tobin for being the champion in recognizing the Police Department staff and everyone involved.

Commissioner Tobin also presented Certificate of Appreciation to Detective Velasquez's son.

5:25:22 p.m.

PA5 Proclamation To Be Presented To Tony Lima For His Service To SAVE, During His First Year As Executive Director.

(Requested by Vice-Mayor Michael Grieco)

ACTION: Proclamation presented.

Vice-Mayor Grieco announced that Tony Lima, the Executive Director of Save, an organization that is the leader in Miami-Dade County when it comes to fighting for equality and LGBT rights. A year ago, Tony became Executive Director of SAVE. Vice-Mayor Grieco listed some of the things that Mr. Lima and SAVE have done in the past year, and thanked Tony and SAVE for all they have done for the community both educationally and as a movement. He read the proclamation into the record and congratulated Mr. Lima. Vice-Mayor Grieco proclaimed September 3, 2014 as Tony Lima and SAVE Day in Miami Beach.

5:19:55 p.m.

PA6 Certificates Of Recognition To Be Presented To Carole Lasker And Chris Hevia For Their Efforts In Working With Our Police Department In Lowering Crime.

(Requested by Vice-Mayor Michael Grieco)

ACTION: Certificates presented.

Vice-Mayor Grieco stated that Police Officer Julio Blanco and he go a long way because he had the pleasure of working with Officer Blanco during his prosecutor days, and they have remained friends throughout the years. Officer Blanco is a hardworking individual who works the North Beach area. Officer Blanco has brought a couple of names to Vice-Mayor Grieco's attention of individuals who should be recognized, and he deferred to Officer Blanco to explain how this came about.

Officer Julio Blanco stated that it is not a secret that condominiums in Miami Beach are relatively safe. They enjoy low crime, safety and quality of life because of companies like Continental First Service Residential, where they reach out to the Police Department often to ensure that the safety standards are high, whether it is preventing theft or burglaries, they always reach out to the Police Department for tips and advice. They also reach out to the Police Department to arrange meetings at the condominiums to improve safety, access control, camera systems and positioning of security systems. Continental First is at the forefront of making sure that they prevent anything from happening by making sure their security systems are up-to-date. Because they do it on a proactive basis, rather than reactive basis, the Police Department receives a call and the problem is solved before a crime occurs. Similar programs are ongoing with every condominium in the City. There has been a noticeable reduction in crimes in many of these properties. Officer Blanco thanked Continental First and recognized them for their commitment to the community of improving safety and quality of life to all these people in these properties. He thanked and recognized Carol Lasker and Chris Hevia from Continental First.

Vice-Mayor Grieco thanked and recognized Carol Lasker and Chris Hevia, and added that it is important to have civilian partners to help and they set the standards. He read the certificate into the record.

5:37:30 p.m.

- PA7 Certificates Of Recognition To Be Presented To George Daly And Elias Hanno Of Boucher Brothers Management For Their Heroic Effort.
(Requested by Mayor Philip Levine)

ACTION: Item deferred.

Mayor Levine stated that everyone remembers recently the single engine plane that crashed on the beach. The City is very blessed to have partners in the City such as the Boucher Brothers. Two of their employees, George Daly and Elias Hanono, swam out and rescued the pilot. The City wants to recognize them for their bravery with a certificate that will be presented later.

5:34:06 p.m.

- PA8 Certificate Of Recognition To Be Presented To Officer Adrian Dominguez For His Locating And Arresting The Subject From The Criminal Mischief/Hate Crime Incident At Temple Emanu-El On September 9, 2014.
(Requested by Mayor Philip Levine)

ACTION: Certificate presented.

Mayor Levine explained that there was a hate crime committed at Temple Emmanuel. The Temple was defaced, and thanks to the amazing work of the Miami Beach Police Department, the culprit was captured. He thanked and recognized Officer Adrian Dominguez for his amazing work in locating the subject. The Mayor read the Certificate of Recognition into the record. The City is grateful to have such dedicated Officers such as Adrian Dominguez protecting our City.

Chief Oates stated this was a team effort and recognized the community.

5:38:44 p.m.

- PA9 Certificates Of Appreciation To City Of Miami Beach Fire Department Personnel: Firefighter Daniel Hargis, Captain Allan Lopez, Firefighter George Barreiro, And Driver Engineer Miguel Hernandez In Appreciation Of Their Participation During The Presentation And Tour Of The Fire Truck To Our Sister City Delegates From Fujisawa Japan.
(Requested by Commissioner Joy Malakoff)

ACTION: Certificates presented.

Commissioner Malakoff stated that they recently had wonderful visitors from our Sister City Fujisawa, Japan. She explained that they are five wonderful women from Fujisawa, Japan; all attending different colleges in Tokyo, Japan. She thanked Dessiree Kane from Commissioner Tobin's Office for doing all the arranging of their schedule when they were here. One of the high points on their schedule was the visit to a Miami Beach Fire Station, where they witness a firefighter presentation and toured the Fire trucks. In appreciation, the visiting students from Fujisawa autographed some of the pictures that were taken. She read the certificate into the record and called up Captain Allan Lopez, Driver Engineer Miguel Hernandez, Fire Fighters Daniel Hargis, Fire Fighter George Barreiro and Fire Chief Fernandez.

5:42:44 p.m.

PA10 Hereditary Breast and Ovarian Cancer Week Proclamation
(Requested by Commissioner Malakoff)

Commissioner Malakoff asked Wendy Unger to come forward. Commissioner Malakoff thanked Wendy Unger for bringing "Hereditary Breast and Ovarian Cancer Week," which will be celebrated in October, to the attention of the citizens of Miami Beach and to the City Commission. She read the proclamation into the record.

Wendy Unger thanked the Mayor and City Commission, and especially Commissioner Malakoff for the proclamation. She thanked Representative Debbie Wasserman Schultz for proclaiming the month nationally as Hereditary Breast and Ovarian Cancer month. She also thanked her father, Dr. Harold Unger, a retired surgeon, who pioneered these surgeries that allowed patients to have breast reconstruction at the time of mastectomy. This made it possible for women in our community to be able to be whole after breast cancer, or to perform risk reduction surgery after their surgeries. She thanked Commissioner Malakoff and everybody in the Commission, and announced that this is National Ovarian Cancer Month and October is National Breast Cancer Month. She added that there is not one person in this room who is not touched by cancer, and encourage everyone to do something about it.

CONSENT AGENDA

C2 - Competitive Bid Reports

SUPPLEMENTAL MATERIAL 1: Memorandum

C2A Request For Approval To Award A Contract Pursuant To Invitation To Bid (ITB) 2014-355-JR For Press Room Audio Visual Equipment And Installation.
(Communications/Procurement)

ACTION: Request awarded. **Nannette Rodriguez and Alex Denis to handle.**

C4 - Commission Committee Assignments

C4A Referral To The Planning Board - Additional Modifications To The Land Development Regulations Regarding Unit Size And Lot Coverage Calculations For Accessory Structures Permitted In Single Family Home Districts, As Part Of The Comprehensive Single Family Revisions Pending Before The Planning Board.
(Sponsored By The Land Use And Development Committee)
(Legislative Tracking: Planning)

ACTION: Item referred. **Thomas Mooney to place on the board agenda and to handle.**

- C4B Referral To The Land Use And Development Committee And The Planning Board - Discussion Of Proposed Amendment To The Adjusted Grade Of Required Yards In Reference To Seawall Built At 5'7" NAVD.

(Requested by Commissioner Joy Malakoff)

ACTION: Item referred. Thomas Mooney to place on the committee and board agendas. **Thomas Mooney, Eric Carpenter and Bruce Mowry to handle.**

- C4C Referral To Land Use And Development Committee And The Planning Board Of A Discussion Item To Amend Chapter 118 Relating To Variances; To Modify The Land Development Code To Provide Exclusive Jurisdiction Over Distance Separation Variances For Alcohol Establishments To The Board Of Adjustment.

(Requested by Commissioner Joy Malakoff)

ACTION: Item referred. **Thomas Mooney to place on the committee and board agendas. Thomas Mooney to handle.**

- C4D Referral To The Land Use And Development Committee - Creation Of A Waiver To The Minimum Requirement Of 100 Hotel Rooms For Special (Series S) Liquor Licenses.

(Planning)

ACTION: Item referred. **Thomas Mooney to place on the committee agenda and to handle.**

ADDENDUM MATERIAL 1:

- C4E Referral To The Next Neighborhood/Community Affairs Committee Regarding Designating A Street "Women's Club Way" To Honor The Historic Women's Club In Miami Beach.

(Commissioner Deede Weithorn)

ACTION: Item referred. **Vania Pedraja to place on the committee agenda. Thomas Mooney to handle.**

C6 - Commission Committee Reports

C6A Report Of The Land Use And Development Committee Meeting Of September 3, 2014: 1) Discussion On Overlay Districts. 2) Discussion On Proposed Amendments To The Land Development Regulations To Remove The Existing 'Sunset' Provision For Parking District No. 5 (Sunset Harbor) And To Clarify The Conditional Use Requirements In The CD-2 District. 3) Discussion On A Proposed Amendment To The Land Development Regulations To Clarify An Inconsistency Regarding Lot Aggregation Requirements And Building Heights In The RPS Districts. 4) Amendment To The Development Regulations In The MXE Zoning District As They Apply To Non-Hotel Uses. 5) Discussion On Approval Of A Vehicular Bridge Over 44th Street (Between Collins And Indian Creek) Connecting The Fontainebleau Hotel With A Proposed Parking Garage. 6) Discussion On Proposed Amendments To The Single Family Home Ordinance.

ACTION:

1) Discussion On Overlay Districts.

MOTION: Discussion continued to October 1, 2014 by acclimation

2) Discussion On Proposed Amendments To The Land Development Regulations To Remove The Existing 'Sunset' Provision For Parking District No. 5 (Sunset Harbor) And To Clarify The Conditional Use Requirements In The CD-2 District.

MOTION: JW/MG (3-0)

Recommend the removal of the sunset provision and require a progress report on Parking District No. 5 in one year.

3) Discussion On A Proposed Amendment To The Land Development Regulations To Clarify An Inconsistency Regarding Lot Aggregation Requirements And Building Heights In The RPS Districts.

MOTION: JW/MG (3-0)

Recommend the complete removal of Section 142-696.3 and raising the maximum height limit for lots less than 50 feet in width from 35' in height to 40' in height, to better comport with the allowable 4 stories.

4) Amendment To The Development Regulations In The MXE Zoning District As They Apply To Non-Hotel Uses.

MOTION: MG/JW (3-0)

Recommend approval of the Ordinance as proposed.

5) Discussion On Approval Of A Vehicular Bridge Over 44th Street (Between Collins And Indian Creek) Connecting The Fontainebleau Hotel With A Proposed Parking Garage.

MOTION: MG/JW (3-0)

Recommend approval of the proposal.

6) Discussion On Proposed Amendments To The Single Family Home Ordinance.

MOTION: By Acclamation:

1. Recommend approval of the proposed Accessory Structure projection revisions.
2. Continue the discussion on rear yard swimming pools to the October 1, 2014 Land Use Committee.
3. No formal action taken on the proposal for extending DRB review to properties containing single-family homes built after 1941.

C6B Report Of The Finance And Citywide Projects Committee Meeting Of August 29, 2014: 1) Discussion Regarding Adoption Of An Updated Strategic Plan For The Cultural Affairs Program, To Include Utilization Of Fillmore Community Benefit Fund, Cultural Arts Council Endowment, And Cultural Affairs Program Fund Balance Funds For Greater Cultural Benefits For Residents And Visitors. 2) Discussion Regarding The Schedule Of User Fees For Various Parks And Recreation Programs And Services, Facility Admissions And Rentals. 3) Discussion Regarding Renovation Alternatives For Muss Park. 4) Discussion Regarding Update On The Cost To Complete The Biscayne Point Island Entry Way. 5) Discussion Regarding Finalizing Proposed FY 2014/15 Operating And Capital Budget. 6) Discussion Regarding Parking - Strategic Pricing. 7) Discussion Regarding Water And Sewer Rates.

ACTION:

1) Discussion Regarding Adoption Of An Updated Strategic Plan For The Cultural Affairs Program, To Include Utilization Of Fillmore Community Benefit Fund, Cultural Arts Council Endowment, And Cultural Affairs Program Fund Balance Funds For Greater Cultural Benefits For Residents And Visitors.

The Committee reviewed the updated Cultural Affairs Strategic Plan on May 20, July 18, and August 13, 2014, and recommended an increase in the number of Community Benefit Fund rent waivers and the capping of the annual fund balance at its current level of \$2,640,184, with an annual increase for inflation based upon the Consumer Price index, but recommended against utilizing the Cultural Affairs Council Endowment Fund to fund Sleepless Night.

2) Discussion Regarding The Schedule Of User Fees For Various Parks And Recreation Programs And Services, Facility Admissions And Rentals.

The Committee voted on the item and it was a split decision to endorse the budget advisory recommendation on increasing rates while not increasing the resident rate. The Committee also asked that the concept of strategic pricing and the Premier Card be referred to the Budget Advisory Committee (BAC) for review. The vote was split two votes for and two votes against the BAC recommendation.

3) Discussion Regarding Renovation Alternatives For Muss Park.

The Committee recommended replacing Pay as You Go as the funding source for the project and substituting it for the Quality of Life funding per Option 5:

- Demolish the existing pavilion \$50,000;
- Construct a new pavilion of approximately 4,000 square feet to accommodate approximately 120 children;
- The new pavilion would include two ADA accessible restrooms, office, reception area, storage, and mechanical room and would also include a permanent air conditioning system and folding or rolling panels in order to fully enclose the pavilion when needed;
- The pavilion would accommodate approximately 120 children;
- Estimated Construction Cost: \$1,050,000 35% for soft costs to include: CIP fees, bond/insurance, permits, design, contingency and other related costs = \$367,500;
- Total Estimated Project Cost: \$1,417,500; and
- Additional funding needed net of \$371,659 available from project \$1,045,841

4) Discussion Regarding Update On The Cost To Complete The Biscayne Point Island Entry Way.

The Committee recommended funding an additional \$50,000 for the shortfall for the Biscayne Point Island Entry Way.

5) Discussion Regarding Finalizing Proposed FY 2014/15 Operating And Capital Budget.

The Committee recommended accepting the proposed changes to the recommended enhancements:

Commission Changes to Recommended Enhancement – General Fund

ODPI	Delete funding for Cultural Communication in the Workplace workshop	(42,000)
Parks & Recreation	Senior Enhancement Transportation Service (SETS): Revise to \$30,000 from \$35,000	(5,000)
Public Works	Assistant Director Position: Replace with the Streets and Lighting Superintendent position from the Non-Recommended list.	(9,000)
Total Changes to Recommended Enhancements		(56,000)
Recommended Efficiencies		(60,000)
Unallocated Surplus		(32,000)
Public Works		
Total Surplus Available		(148,000)

Potential Changes to General Fund Enhancements

Surplus Available	(see calculation above)	(148,000)
Risk Management	Delete funding for additional Windstorm Insurance/Reduction to Risk deficit	(201,000)
Information Technology	Delete funding for backup to out of region data center	(131,000)
Planning	Delete funding for Massing Studies - fund during FY14	(80,000)
Emergency Management	Delete funding for 9-1-1 records custodian; address process instead	(70,000)
		(630,000)
Code Enforcement	More Proactive Code Compliance Environment	(270,000)
ODPI	Cleanliness Index	(36,000)
Parks & Recreation	Park Ranger program	(266,000)
Police	Body Camera positions (50%)	(99,000)
Housing & Community Svcs	Address Homelessness at Lummus Park	(118,000)
Emergency Mgmt/9-1-1	Hurricane and Disaster Preparation Equipment	(101,000)
Citywide	MB Botanical Garden	(15,000)
Additional Resort Tax Transfer to the General Fund		(905,000)

Potential Additions to Recommended Enhancements from Commission

Building	Establish an unsafe structure panel	50,000
OBPI	Increase audit coverage by adding Internal Auditor Position	60,000
Community Services	A program for at-risk teens delivering produce to shut-ins in conjunction with community services	10,000
ODP	IB Program at Nautilus Middle School	94,000
		214,000

Note: Funding could be addressed through additional Resort Tax transfer

Potential Changes to Non-General Fund Enhancements

Public Works-Stormwater	Funding for Special Studies	(750,000)
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The Committee also agreed to reduce the millage rate by 0.0926, which would result in no tax increase to the median or average property owner.

6) Discussion Regarding Parking - Strategic Pricing.

The Committee recommended proceeding with a demand based pricing strategy test on 46th Street and Collins Ave parking lot and to also proceed with a on street parking test area.

7) Discussion Regarding Water And Sewer Rates.

The Committee recommended approval of the pass through of the respective water sewer rate increases, as well as establishing a policy of automatically implementing the percentage increases of water and sewer rates that are enacted by Miami-Dade Water and Sewer Department (WASD). The Committee also directed the Administration to follow up with all appropriate administrative actions to assure that fees are commensurate with the cost of service provided to the Satellite Cities. The Committee also agreed on increasing the sewer rate from \$6.34 to \$7.55 and the water rate from \$4.36 to \$4.43, which is inclusive of the pass through from Miami-Dade WASD.

C7 - Resolutions**SUPPLEMENTAL MATERIAL 1: Memorandum & Resolution**

- C7A A Resolution Authorizing A Continuing Month-To-Month Extension Of The Current Contracts For Professional Architectural And Engineering Services In Specialized Categories On An "As-Needed-Basis" With Various Firms (Identified In Exhibit A), With Said Extension Terminable By The City For Convenience And Without Cause, At Such Time As A New Contract For Professional Architectural And Engineering Services Is Established.
(Capital Improvement Projects/Procurement)

ACTION: Resolution 2014-28743 adopted. David Martinez and Alex Denis to handle.

SUPPLEMENTAL MATERIAL 1: Resolution

- C7B A Resolution Supporting Healthy Food And Beverage Options In Vending Machines In All City-Owned Facilities, And Directing The City Administration To Develop A Healthy Options Vending Machine Policy And, In The Interim, Encouraging Current Vendors Providing Vending Machine Services To City-Owned Facilities To Supply Healthier Food And Beverage Options.
(Requested by Commissioner Micky Steinberg)
(Legislative Tracking: Office of the City Attorney)

ACTION: Resolution 2014-28744 adopted. Alex Denis to handle.

6:34:19 p.m.**ADDENDUM MATERIAL 1:**

C7C A Resolution Regarding The Subject Of A Moratorium; Imposing A Temporary Moratorium On The Acceptance Of Or Processing Of Any Applications Or Issuance Of Any City Permits Or Approvals For The Siting Or Installation Of Any Wireless Telecommunication Facility (Including But Not Limited To "Telecommunication Towers" As Defined By Federal Law, Or Any New "Wireless Personal Telecommunications Services Tower," "Tower," Or Distributed Antenna System," Or Any Other Communications Facilities Wholly Contained Or Mounted On A Single Stand Alone Tower As May Be Contemplated By Section 337.401, Florida Statutes; Such Moratorium Being Effective For Any Public Right-Of-Way Within The City Of Miami Beach; With Such Moratorium To Be Effective Upon The Date Of Adoption Of This Resolution.

(Requested by Commissioner Jonah Wolfson)

(Legislative Tracking: Office of the City Attorney)

ACTION: Resolution 2014-28752 adopted. Item separated by Mayor Levine. Motion made by Commissioner Wolfson to pass a moratorium and for an open competitive process to be completed before 180 days; seconded by Commissioner Weithorn; Voice-vote; 7-0. **Office of the City Attorney and Alex Denis to handle.**

Raul J. Aguila, City Attorney, explained that this item is a resolution that proposes a 180-day moratorium on the issuance of permits and the processing of applications for telecommunications facilities, and specifically on wireless telecommunications towers, including the Distributed Antenna System Network or DAS. The reason for this moratorium is that the City has been currently considering an amendment to its telecommunications Ordinance, which would regulate the placement of these facilities on the public right-of-way. Currently under Federal and State law (Telecommunications Act), telecommunications services providers are entitled to place these facilities on the right-of-way and the law treats them as utility providers. However, the law recognizes that local governments have the right, and need the right, to regulate these facilities to the extent of being on the right-of-way from a design and aesthetic perspective. What Commissioner Wolfson is essentially asking for in calling for this moratorium, is notwithstanding the fact that this Ordinance has been discussed at committees, but he is asking for additional time for the Planning Board and Land Use and Development Committee, and more importantly the City Commission, to continue to be able to review this Ordinance to assure that the City is adequately protected, with respect to aesthetic criteria and public health and safety criteria. Basically, what these towers do is improve the capability for these DAS facilities on the right-of-way. Many people use their iPhones on right-of-way property, and on one hand local governments, including this body, are passing legislation prohibiting texting while driving, and addressing safety concerns that come as result of texting, when in cars or while on public property, and accidents have been caused because of this. He added that what Commissioner Wolfson is asking, and legally what he wants to tell the Commission is that this moratorium is legally proper; it is limited in scope, it does not discriminate, as they are not prohibiting wireless facility providers from operating in the City, but these DAS facilities go towards updating these facilities on the public right-of-way. They know that with regard to Federal and State law, when an application is submitted as a telecommunications provider, from the moment the application is deemed complete, there is a "shot clock," where the City has a time in which to approve or deny the application. The case law recognizing telecommunications moratoria recognizes that these "shot clocks" are not intended to be written in stone, and they do not eliminate a municipality's public interest and in effect need for a regulation of these types of facilities. He believes this moratorium is legally sustainable. He referred to a letter received from Crown Castle, who has currently submitted an application to operate DAS towers in the right-of-way. The contentions made in the letter is that: 1) it is discriminatory because it singles them out, but the only reason they are singled out is because they are the only applicant that has provided application on the

right-of-way; and 2) because it unreasonably delays the approval of their applications. As he said, there is ample evidence that substantiates the needs for this moratorium. City Attorney Aguila distributed a handout to the City Clerk, and he requested that it be incorporated into the record. **See City Clerk's Note.**

Mr. Aguila added that: 1) what the moratorium in essence will do is that currently there are five permits that have been approved by the Historic Preservation Board; one of those is pending appeal. The moratorium in essence will freeze everything, so any permits other than those that are in the pipeline being reviewed and processed will be frozen, as well as any new applications or incomplete applications that have been submitted in order to give this Commission the time it needs to study this Ordinance. 2) At the last meeting there was an item where the City had been approached with a proposal from a telecommunications facilities provider offering to do business with the City for certain licenses to install telecommunications towers on City property and private property, and they would do that this via the granting of a license agreement for the City's property, because it is the City property and they can dispose of City property as they reasonably deem fit. The issue that was going to come back to Commission is to consider that proposal as a waiver of competitive bidding. He recalls that the attorney from Crown Castle at that time made a case saying that the City may not want to waive competitive bidding, but may want to take proposals from other entities, including Crown Castle, in addition to the entity that had made a proposal to the City. Since the priority of this moratorium is to allow the City the proper time it needs, rather than consider a waiver of competitive bidding for the proposal received or those that will be received, that is off the table at this point, and that the City may want to either consider issuing licenses for these telecommunications facility towers on City property through a competitive bid or other equally competitive process. What you are looking at is this moratorium to allow this Commission to continue to refine the telecommunications Ordinance as it pertains to the regulations of these facilities on the right-of-way.

Commissioner Wolfson stated that there is consensus that this Commission does not want ugly street furniture in City's sidewalks, and he suggested figuring out the best/most legal method to get there. At the last meeting, the reason he suggested going with the waiver of competitive bidding, is because if you have a private company and there are on City property, the City can get some money out of it and there be no reason for a second company to be putting these items on the streets. Crown Castle never came to the City and asked if they could put their items on the buildings. It seems to him that a reasonable approach would be if Crown Castle would withdraw their applications before the boards, for the City to put out an RFP for competitive bidding and let the best bidder win. This is fair, they can protect the City from having unaesthetic furniture and massive poles on the sidewalks and they would allow the City to select a company that can do business with the City and there will not be any legal challenges, and to him that seems a fair and honest result. If they do not want to do that, he suggested putting a moratorium in place and continue negotiations with them one on one.

Mayor Levine feels that they need a moratorium to have a fair and open competitive bidding process for the City for this technology.

City Attorney Aguila explained that Crown Castle asked the City to allow them to compete at the last meeting. The moratorium would not prohibit collocations or applications for license agreements for City and private properties, which is where the competitive bid process comes in.

Commissioner Weithorn stated that, for the record, this has been about their concern for putting too much into the right-of-way, this is a City that is incredibly dense, not only with cars, but also dense with bicycles and pedestrians, and in order to have sidewalks free and allow access, there should be as little as possible in the right-of-way. She believes that at no time should they allow

technology to take precedence over pedestrian safety, and she applauds Commissioner Wolfson for his initiative.

Kathie G. Brooks, Assistant City Manager, for the record, informed that the City has an existing agreement for one of the facilities, the Anchor Garage with Crown Castle, which has been in place for ten years and expires in 2015.

Clifford Schulman, Esq., representing Crown Castle, stated that this Commission is talking about the "M" word in the development community when referring to the moratorium. This Commission was elected to be business friendly. They have been operating in this community and have over 40 pending applications that they have been working on for months at a cost of thousands of dollars. They believe the "M" word is unnecessary. They have worked voluntarily with the Design Review Board staff and the Historic Preservation Board staff to redesign their facilities with those suggestions and are still working on new designs voluntarily and to make them more "aesthetic pleasing." With respect to City Attorney Aguila, he supplied them with a letter distributed today, he thinks the City is putting itself in a legal quandary, and the City could be subjected to legal liability. A 180-day moratorium in it of itself violates the reasonable time period set forth in both Federal regulations of 150 days and the State regulations that are 90 days.

Raul J. Aguila, City Attorney, clarified that reading from one of the cases cited, Sprint v. the City of Medina, even Congress has said that there is nothing to suggest that by requiring action when there is a reasonable period of time, that it was intended to force local governments to proceed through a rigid timetable where the circumstances, in this case, call for study, deliberation and decision making.

Discussion held regarding the legality of the moratorium.

City Attorney Aguila stated that legally\ if Crown Castle does in fact believe that the City's moratorium is either unreasonable or discriminatory, then they follow through with injunctive and declaratory relief in either State or Federal Court, and if they prevail, the remedies of the Courts in the past have been to grant the applications that have been submitted.

Mr. Schulman stated that they believe this action is discriminatory. When the City Commission took action last week to negotiate with a sole source contract with their competitor, who has no pending applications, and then defiantly place a moratorium on them and exempt any facility that is going on City owned buildings from the moratorium.

Discussion held regarding competitive bidding and the sole source provider.

Mr. Schulman added that they do not believe it serves the public well to delay the implementation of the most modern technology made available to the residents of Miami Beach by 180 days. He added that he has never known a moratorium to last its first stated timeline. It never is done in 180 days.

Discussion continued.

Motion made by Commissioner Wolfson to pass a moratorium and for an open competitive process, to be completed before 180 days; seconded by Commissioner Weithorn; Voice-vote; 7-0.

City Clerk's Note:

Below is the language to incorporate into the record as submitted by City Attorney Raul J. Aguila:

Reasons for Moratorium:

In all discussions with possible applicants - there is no GAP in service. Coverage is present. There may be a delay in downloads

No current applicant is an actual provider of service, rather they create the structure that could house the provider - so it does not appear the FTA is triggered.

Street Furniture - includes poles, lights, etc. There has been expressed by the HPB, DRB and PB concerns over safety with additional street furniture.

Visual obstructions to Historic Structures in both local designated areas and National Historic Designation Areas.

Concerns with ADA access and sidewalks.

Additional poles, which an applicant has advised would include at least 100 additional street furniture items being added to right-of-way, causing additional visual obstructions to drivers, in seeing the ROW, in seeing pedestrians (and vice versa).

Comments from applicants that existing poles are not structurally sound or able to collocate—our poles, etc., seem to withstand hurricanes, so, need to understand if this is true, if there can be collocation or replacement of a light structure rather than adding more street furniture.

Should arterial roads be used rather than alleyways (which are often less traveled and reflect the back of a structure or business, so, may be more visually appealing in an alley?

Representation that traffic lights cannot be used for collocation, County owns the lights; so, need to determine if County would allow collocation.

The issue of whether the poles/street furniture would threaten property values, this claim needs to be evaluated, particularly for historic districts.

The City needs to evaluate if the proposed distance separation is possible, or should be revised, expanded or eliminated.

City of Miami Beach is a pedestrian City, unlike many cities in Florida, and with the Deco Bike program, etc., need to make sure that street furniture is minimized and that the poles do not cause additional aesthetic, visual pollution, and protect the community.

Handouts and Reference Materials:

1. Reasons for Moratorium submitted by Raul J. Aguila, City Attorney.
2. Email from Tony Recio TRecio@wsh-law.com dated September 17, 2014 RE: Proposed Moratorium – Addendum Item #C7C
3. Letter to Raul J. Aguila, City Attorney, dated September 25, 2014, RE: Moratorium on “Wireless Facilities in the Right of Way” Enacted by the Miami Beach City Commission on September 17, 2014.

End of Consent

REGULAR AGENDA**R2 - Competitive Bid Reports****7:38:03 p.m.**

- R2A Request For Approval To Issue An Addendum To The Request For Proposals (RFP) 2014-294-ME For Design-Build Services For The Miami Beach Convention Center Renovation And Expansion Project, Which Includes The Criteria For Phase II Evaluation Process.
(City Manager's Office/Procurement)

ACTION: Request approved. Motion made by Vice-Mayor Grieco to go back to the previous scoring method proposed at the September 10, 2014 Commission meeting; seconded by Commissioner Wolfson. **Maria Hernandez and Alex Denis to handle.**

Maria Hernandez, Special Projects Coordinator, summarized the revised memorandum and explained that they came up with a scoring method based on \$5 million increments.

Vice-Mayor Grieco stated that he preferred the scoring the way it was before. His concern is that someone comes in and cuts costs with the Convention Center.

Mayor Levine stated that he is in agreement with Vice-Mayor Grieco. They want the best builder and they need the best criteria for that. "You get what you pay for," commented Mayor Levine.

Commissioner Wolfson agreed.

Motion made by Vice-Mayor Grieco to go back to the previous scoring method; seconded by Commissioner Wolfson.

SUPPLEMENTAL MATERIAL 1: Memorandum

- R2B Request For Approval To Award A Contract(s) Pursuant To Invitation To Bid (ITB) No. 2014-305-YG For Lifeguard Stands Replacement Project.
(Capital Improvement Projects/Procurement)
(Memorandum to be Submitted in Supplemental)

ACTION: Item moved to R7G.

R5 - Ordinances**7:09:16 p.m.****SUPPLEMENTAL MATERIAL 1: Ordinance**

R5A An Ordinance Amending Chapter 2 Of The Code Of The City Of Miami Beach, Entitled "Administration," By Amending Article VI, Entitled "Procurement," By Amending Division 3, Entitled "Contract Procedures," By Amending Section 2-366, Entitled "Generally," and Section 2-367, Entitled "Rejection Of Bids; Negotiation; Waiver Of Competitive Bidding," and Section 2-369, Entitled "Award Of Contract," And Section 2-370, Entitled "Award Of Contract To Other Than Low Bidder," By Increasing The Threshold For Formal Bids And The City Manager's Authority To Award A Contract From \$25,000 To \$50,000, As Well As Participate In Cooperative Purchases; By Further Amending Section 2-371, Entitled "Authority To Resolve Protested Bids And Awards," By Amending The Procedure For Protested Bids And Proposed Awards; By Further Amending Division 4, Entitled "Purchases," By Amending Section 2-395, Entitled "Open Market Procedures," By Increasing The Threshold For Open Market Purchases From \$25,000 To \$50,000 And Amending Terminology Therein; And Providing For Repealer, Severability, Codification, And An Effective Date. **5:30 p.m. Second Reading Public Hearing**

(Sponsored by Finance & Citywide Projects Committee)

(Legislative Tracking: Procurement)

(First Reading on September 10, 2014 - R5J)

ACTION: Title of the Ordinance read into the record. Public Hearing held. **Ordinance No. 2014-3892 adopted.** Motion made by Commissioner Weithorn; seconded by Commissioner Malakoff to adopt the Ordinance on second reading. Ballot vote: 7-0. **Alex Denis to handle.**

Handout and Reference Materials:

1. Ad in The Miami Herald No. 932

7:10:59 p.m.

R5B Tree Preservation And Protection Ordinance

An Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article II, "Care And Maintenance Of Trees And Plants," By Amending Division 2, "Trees"; To Amend The Definitions, Purpose And Intent; Scope, Applicability And Exemptions; Permitting Application Requirements, Notice And Procedures For Obtaining Permits; Imposing Criteria And Conditions For Tree Removal And Relocation; Tree Replacement; Tree Preservation And Protection Requirements; Defining And Protecting Heritage And Specimen Trees; Establishing A Miami Beach Tree Preservation Trust Fund; ~~Regulating Tree Services And Arborists~~; Defining Trees Constituting A Public Nuisance; Providing For Appeals; Enforcement And Civil Remedies; Prohibited Species; Duties And Authority Of The Urban Forester; And Providing For Repealer; Codification; Severability; And An Effective Date. **5:35 p.m. Second Reading Public Hearing**

(Sponsored by the Neighborhood/Community Affairs Committee)

(Legislative Tracking: Public Works)

(Deferred from September 10, 2014 - R5D)

ACTION: Title of the Ordinance read into the record. Public Hearing held. **Item opened and continued.** Motion by Vice-Mayor Grieco to open and continue the item to October 22, 2014 Commission Meeting; seconded by Commissioner Tobin; Ballot vote: 6-1; Opposed: Commissioner Malakoff. Lilia Cardillo to place on the October Commission Agenda if received. **Eric Carpenter to handle.**

Commissioner Wolfson thinks they should follow the County Ordinance, as it protects trees adequately; and this proposed Ordinance has an incredible amount of excessive text and gives too much authority to Code enforcement staff to give violations to property owners based on what property owners do with their trees. It is excessive government bureaucracy, and an excessive intrusion into people's private property.

Discussion held.

Commissioner Malakoff explained that this Ordinance gives Miami Beach the ability to regulate the trees that are planted, allows for tree replacement and preservation, which is important for Miami Beach. Currently it is up to the County, and the County is not necessarily here all the time. There are houses being demolished and trees being removed throughout neighborhoods that should not be removed. If the City waits for the County, nothing will ever be done. Commissioner Malakoff feels that most of the proposed Codes track the County's Code, but are more specific to Miami Beach; the City has trees that require preservation differently from the County, and she encouraged that they pass this Ordinance today.

Mayor Levine asked Commissioner Wolfson to identify the specific issues that he has a problem with and meet with staff to address his issues.

Discussion held.

Motion by Vice-Mayor Grieco to open and continue the item to October 22, 2014; seconded by Commissioner Tobin; Voice vote: 6-1; Opposed: Commissioner Malakoff.

Handout and Reference Materials:

1. Ad in The Miami Herald No. 934

7:42:08 p.m.

R5C Unclassified Salary Ordinance

An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance Of The City Of Miami Beach, Florida, As Follows: Providing For The Classifications In Group VII, Comprised Of At-Will Employees Commonly Referred To As "Unclassified Employees"; Deleting The Obsolete Management And Budget Analyst I; Revising The Pay Range For The Director Of The Office Of Communications, Building Records Supervisor And Management And Budget Analyst; Establishing The Following Newly Created Classifications: Emergency Management Director; Deputy Director Parks And Recreation; Management And Budget Manager; Marketing, Tourism And Development Manager; CMBPD Chief Of Staff; Information Technology Division Director; Grants Specialist; CMB Media Ambassador; Chief Roofing Inspector And Procurement Contracting Officer; And Providing For Repealer, Severability, And An Effective Date. **First Reading**

(Sponsored by Commissioner Deede Weithorn)
(Legislative Tracking: Human Resources)

ACTION: Title of the Ordinance read into the record. Public Hearing held. **Ordinance approved on first reading as amended.** Motion made by Commissioner Weithorn; seconded by Commissioner Malakoff to approve the Ordinance as amended. Second reading public hearing scheduled for September 30, 2014 at 5:05 p.m. **Rafael E. Granado to notice.** Lilia Cardillo to place on the Commission Agenda if received. Ballot vote: 7-0. **Sylvia Crespo-Tabak to handle.**

Amendment:

Include language in the Ordinance to ensure that an Item be presented to the City Commission whenever staff is hired at a salary above \$150,000.

Sylvia Crespo-Tabak, Human Resources Director, explained that since the Commission approved the Unclassified Service Salary Ordinance, the City has added ten new positions that should be included in the compensation salary plan; and explained other changes to the Ordinance.

Commissioner Weithorn moved the item. No second offered and discussion held.

Commissioner Tobin stated that after reviewing the Ordinance, at levels 27 and 28, which encompasses Executive Staff, it looks like the top of the range, when including benefits, is very high at \$300,000. In addition to big salaries, they are also receiving large pensions. He received an e-mail from Administration clarifying that this salary is not exactly what the pension is being calculated upon, but what they could be paid. He is satisfied with this City Manager, but he is concerned about having another City Manager hiring employees at top salaries. He suggested that the Administration review the salary ranges between first and second reading.

Ms. Crespo-Tabak clarified that these ranges were approved last week, and they can work on them and go back to Finance Committee, but it is not part of the change being proposed today.

Kathie G. Brooks, Assistant City Manager, clarified that the top salary is \$221,000.

Discussion held regarding salary ranges and fringe benefits.

Commissioner Tobin asked how the Commission in the future would be informed of the top salary of unclassified people that are being hired by the City Manager, and asked if they can limit the discretion that the City Manager has for now and in the future, to give jobs capped out from \$200,000 to \$300,000.

Mayor Levine stated that the City has a great CEO and if the Manager/CEO is overpaying executive staff and they are not doing a good job, this Commission has the ability to fire the City Manager.

Discussion continued.

Commissioner Tobin suggested as a matter of checks and balances, and for future Commissions, to include language in the Ordinance that a report be presented to the City Commission of staff hired with a salary above \$150,000. **Sylvia Crespo-Tabak to handle.**

Commissioner Wolfson suggested adding the report of individuals hired at salaries above \$150,000 in the Agenda Book.

R7 - Resolutions**6:25:33 p.m.**

R7A A Resolution Approving, On Second And Final Reading Of This Resolution And Following A Duly Noticed Public Hearing, The Vacation Of N. Meridian Avenue, Between 37th Street (Barry Street) And 39th Street, Consisting Of A 70 Foot Wide Right-Of-Way, Containing Approximately 17,500 Square Feet In Total Area, As Shown On The Plat Of Garden Subdivision Recorded In Plat Book 29 At Page 67, Of The Public Records Of Miami-Dade County, In Favor Of Thomas G. Wenski, Archbishop Of Diocese Of Miami, A/K/A St. Patrick's Catholic Church And School (The Applicant); Waiving, By 5/7th Vote, The Competitive Bidding And Appraisal Requirements Pursuant To, Respectively, Sections 82-39(a) And (b) Of The City Code, Finding That The Public Interest Would Be Served By Waiving Such Conditions; And Further Conditioning The Vacation On A Covenant Running With The Land That The Vacated Property Not Be Used Toward Floor Area Ratio (FAR), And Precluding Construction Of Any Structure Or Improvements Within The Vacated Property. **5:20 p.m. Second Reading Public Hearing**
(Public Works/Office of the City Attorney)
(First Reading on September 10, 2014 - R7G)

ACTION: Title of the resolution read into the record. Public Hearing held. **Resolution 2014-28753 adopted on second and final reading.** Motion made by Commissioner Wolfson; seconded by Commissioner Malakoff to approve the resolution; Voice-vote: 7-0. **Eric Carpenter and Office of the City Attorney to handle.**

Commissioner Wolfson stated that this has been a collaborative effort among the parents, teachers and Father Cid, who has been a tremendous benefit to St. Patrick's; he has been an amazing leader for the Church and has worked very hard on this item for many months. On behalf of the Church, he also wanted to thank everyone who participated from a pro bono level, including the Berrow Law Firm and Rafael Andrade who gave his time. Commissioner Wolfson moved the item and it was seconded by Commissioner Malakoff.

Commissioner Wolfson explained that Mayor Levine had recently travelled to Italy and had the pleasure of presenting the Pope with some wonderful gifts from St. Patrick's children.

Mayor Levine stated that it was an honor to meet Pope Francis, and explained that prior to his visit, Father Cid visited the Mayor and gave him letters and cards from the students at St. Patrick's as well as a letter from Father Cid, and they were hand delivered to the Pope in the Vatican. Mayor Levine presented the Pope with the Key to the City, and encouraged the Pope to visit Miami Beach.

Commissioner Wolfson recognized the Honorable Judge Peter Lopez in the audience.

Handouts or Reference Material:

1. Ad in The Miami Herald No. 921

6:55:31 p.m.**R7B Vacation Of 87th Terrace East Of Collins Avenue**

A Resolution Approving, On Second And Final Reading Of This Resolution And Following A Duly Noticed Public Hearing, The Vacation And Abandonment Of That Portion Of 87th Terrace East Of Collins Avenue, Consisting Of A 50 Foot Right-Of-Way (ROW) Containing Approximately 18,042 Square Feet In Total Lot Area, As Shown On The Plat Of Altos Del Mar Subdivision No. 2, Recorded In Plat Book 4, Page 162 Of The Public Records Of Miami-Dade County, In Favor Of 8701 Collins Development, LLC (The "Applicant"); With Such Vacation Subject To And Contingent Upon The City's Approval, And The City And Applicant's Execution, Of A Development Agreement Which, Among Other Terms And Conditions (1) Grants To The City A Perpetual Pedestrian Access Easement Across A Portion Of The Vacated City ROW, And (2) Ensures Applicant's Payment Of A Voluntary Monetary Contribution, In The Amount Of \$10.5 Million Dollars, To Be Used By The City For Public Purposes; And With Such Vacation Further Subject To And Contingent Upon Applicant's Satisfaction Of The Conditions Set Forth In This Resolution. **5:25 p.m. Second Reading Public Hearing**

(Public Works/Office of the City Attorney)
(First Reading on September 10, 2014 - R7F)

ACTION: Public Hearing held. Title of the resolution read into the record. **Resolution 2014-28754 adopted on second and final reading.** Motion made by Commissioner Wolfson; seconded by Vice-Mayor Grieco; Voice-vote; 7-0. **Eric Carpenter and Office of the City Attorney to handle.**

Ted Berman, President of Biscayne Point Homeowners Association, stated that the area on 87th Terrace is a safe and convenient place for families, especially those with children and disabled individuals to access the boardwalk and beach. He is not pleased with the proposed pedestrian easement, and instead prefers vehicular access to the beach. Mr. Berman added that the funds the developer is granting should be used to improve the park.

Mayor Levine stated that it is the intention of the Commission to use the money to improve the park and areas of North Beach.

Commissioner Malakoff stated that this project will enhance pedestrian access, and perhaps a misunderstanding of the resolution's wording is troubling residents.

Jeff Bercow, on behalf of 8701 Collins Development, LLC, stated that the support for this resolution is adequately set forth by the Administration in the package; the package sets forth the public purpose for the vacation of the right of way. The developers met with Ted Berman and the Biscayne Point Board members several months ago and they review the plans that have eight parking spaces in the approved plan on 87th Terrace. Currently, there are about 30 parking spaces, and they are committed to work with Mr. Berman and his association and if plans change, they will meet with them again. The developers would like to see a traffic signal installed at this location, as well as a and pedestrian crosswalks to make it easy for people to park west of Collins Avenue and walk to the beach. The concerns can be addressed in the development agreement.

Discussion held.

Mr. Berman restated his concerns about this item restricting beach access, eliminating parking and crossing Collins Avenue.

Mayor Levine stated that a parking garage will be built across the street, and it is a good deal for North Beach residents. Access to the beach will not be restricted.

Discussion continued.

Commissioner Tobin asked if the developer needed the FAR and if they use it, is there a way to save more than eight parking spaces.

Mr. Bercow explained that under the current plan, they need that for vehicular access, and the plan shows eight parking spaces, which are private, and perhaps a few public and two handicapped spots.

Discussion continued.

Commissioner Steinberg reassured Mr. Berman that they will work with FDOT on some traffic calming measures regardless of the project.

Motion made by Commissioner Wolfson to adopt the resolution; seconded by Vice-Mayor Grieco; Voice-vote; 7-0.

Discussion continued.

Handouts or Reference Material:

1. Ad in The Miami Herald No. 921

8:05:55 p.m.

R7C A Resolution Authorizing The City Manager Or His Designee To Encourage Residents And Employees Of The City To Support Our Kids Of Miami-Dade/Monroe, Inc. In Its Effort To Create Safe Havens For Children And Families Through Foster Care, Donations, Voluntarism And Adoption.

(Sponsored by Commissioner Deede Weithorn)
(Legislative Tracking: Housing & Community Services)

ACTION: Resolution 2014-28754 adopted. Motion made by Commissioner Weithorn; seconded by Commissioner Steinberg to approve the resolution; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson. **Maria Ruiz to handle.**

Commissioner Weithorn introduced Maria Ruiz to explain the item.

Maria Ruiz, Housing & Community Services Director, introduced Director of External Affairs from Our Kids Organization, Kadie Black, and briefly explained the organization's involvement in the community and their initiative in helping foster children.

Kadie Black explained that Our Kids is the Lead Foster Care Agency in Miami-Dade County, and over the past decade, they have improved the foster care system. This organization is bringing awareness to the community to get involved and support foster care, whether it is by fostering, adopting or volunteering. Our Kids is reaching out to businesses and elected officials to educate employees, constituents and customers in ways to support this important cause. This

organization is concerned in helping those who are the most vulnerable, and have unfortunately been abused, neglected, or abandoned.

Discussion held.

Ms. Black stated that on November 21, 2014, adoptions will be finalized at the Miami Children's Museum, and she invited the Mayor and Commissioners to attend this heartwarming event.

Commissioner Weithorn added that adoptions help one believe in humanity once again, and the City should promote adopting and fostering. She encouraged everyone to attend the adoption event on November 21, and suggested recognizing Miami Beach families that are foster parents.

8:16:59 p.m.

R7D A Resolution Ratifying And Approving A Letter Of Intent (LOI) With Miami Beach Community Development Corporation (MBCDC) For The City's Proposed Purchase Of The Following Properties: Allen Apartments; Barclay Plaza Apartments; Lottie Apartments; Madeleine Village Apartments; And Neptune Apartments (The "MBCDC Properties"); Further Authorizing The City Manager To Negotiate And, If Successful, Execute Purchase And Sale Agreements For The MBCDC Properties; Authorizing The City Manager To Execute Any And All Closing Documents, As Required For The City's Purchase Of The MBCDC Properties; And Further Authorizing The City Manager To Submit A Budget Modification To The State Of Florida Department Of Economic Opportunity For The Balance Of The City's Neighborhood Stabilization Program (NSP1) Funds To Help Fund The Acquisition Of The MBCDC Properties And Create An Operating Reserve For The Lottie Apartments, Madeleine Village Apartments And Neptune Apartments, As Well As Authorizing The Use Of Community Development Block Grant (CDBG) Funds To Also Help Fund The Purchase Of Said Properties.

(Housing & Community Services)

ACTION: Resolution 2014-28756 adopted. Motion made by Commissioner Tobin to adopt the resolution; seconded by Commissioner Weithorn; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson. **Maria Ruiz to handle.**

Maria Ruiz, Housing & Community Services Director, introduced the item regarding the City acquiring five properties from the Miami Beach Community Development Corporation (MBCDC) to address issues that were previously encountered.

Stanley Shapiro, civic activist, expressed his displeasure with MBCDC.

Commissioner Weithorn explained that the City acquiring these properties is to preserve the asset of affordable housing. She thanked Ms. Ruiz for her work.

Commissioner Tobin moved the item; seconded by Commissioner Weithorn; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Weithorn.

8:21:45 p.m.

8:30:00 p.m.

R7E A Resolution Changing The Fee In Lieu Of Providing Parking From \$35,000 To \$40,000, Per Parking Space As Provided By And In Accordance With Section 130-132(d) Of The City Code; With Such Change To Be Effective Upon The Date Of Adoption Of This Resolution.
(City Manager's Office)

ACTION: Resolution 2014-28757 adopted. Motion made by Commissioner Tobin; seconded by Commissioner Malakoff to approve the resolution; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson. Item referred to the Land Use & Development Committee by acclamation. **Thomas Mooney to place on the committee agenda. Saul Frances to handle.**

REFERRAL & RECOMMENDATION:

Land Use and Development Committee to discuss the issue of the parking impact fees and the issue of conducting a parking requirement study.

MOTION 1:

Motion made by Commissioner Tobin; seconded by Commissioner Malakoff to approve the resolution; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson.

MOTION TO RESCIND:

Motion made by Commissioner Tobin to rescind prior vote; seconded by Commissioner Wolfson; Voice vote: 2-4; Opposed: Vice-Mayor Grieco and Commissioners Malakoff, Steinberg and Weithorn; Absent Mayor Levine. **Motion failed.**

Thomas Mooney, Planning Director, introduced Carmen Sanchez, Assistant Planning Director, who will give a presentation on cost analysis.

Assistant Planning Director Sanchez spoke. The Parking Ordinance requires that the average parking space costs be brought to City Commission each year for analysis. Ms. Sanchez brought the analysis, and the average cost of parking space is now up for the Commission's consideration.

Joy Malakoff said the City needs to remain competitive with the actual construction costs of parking spaces in the City, and continue to be financially sound.

Motion No. 1:

Commissioner Tobin moved the item; seconded by Commissioner Malakoff; Voice vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson. Item passed.

8:30:00 p.m.

Commissioner Wolfson expressed concern over raising the parking fees from \$35,000 to \$40,000. He thinks there are instances where he disagrees that the parking impact fees should apply, and prefers not to raise the fee. Commissioner Wolfson suggested referring the issue of the parking impact fees to the Land Use & Development Committee (LUDC).

Joe Jimenez, Assistant City Manager, recommends doing a parking requirement study, because in an urban environment such as ours, the City may have antiquated parking requirements.

Commissioner Malakoff stated that more parking garages are needed in the City and one of the ways to get the funding is through fees in lieu of providing parking spaces.

Discussion held.

Raul J. Aguila, City Attorney, explained that there was a vote on this, and a motion to reconsider is in order.

Motion 2:

Commissioner Tobin moved to rescind prior vote; seconded by Commissioner Wolfson; Voice vote: 2-4; Opposed: Vice-Mayor Grieco and Commissioners Malakoff, Steinberg and Weithorn; Absent: Mayor Levine. Motion failed.

Commissioner Weithorn supports referring the item to LUDC to fix and modernize the rules, but not to alter the rates as she considers the rates adequate.

Vice-Mayor Grieco referred the item to LUDC; referral approved by acclamation.

SUPPLEMENTAL MATERIAL 1: Resolution

7:53:18 p.m.

R7F A Resolution Pertaining To The City Construction Project Formerly Referred To As The "Sunset Harbour Pump Station Retrofit," And Hereinafter Referred To As The "Sunset Harbour Pump Station's Retrofit And Drainage Improvements Project" (Project) And, With Respect To The Project, Accepting The Findings And Recommendation Of The City Manager In Declaring An Emergency Pursuant To Subsection 287.055(9)(c)(6), Florida Statutes; And, As Permitted Pursuant To Section 2-367(e) Of The City Code, Waiving, By 5/7th Vote, The Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager To Take The Following Actions To Procure The Necessary Emergency Design And Construction Services For The Project, Pursuant To A Negotiated Design-Build Contract: 1) Prepare, Whether Through The City's Public Works Department Or Through Retention Of An Outside Design Criteria Professional, As Determined By The City Manager, A Design Criteria Package (DCP) Which Complies With The Specifications Set Forth Under Section 287.055(2)(j), Florida Statutes; 2) Upon Completion Of The DCP, Authorizing The City Manager To Negotiate And, If Successful, Execute A Design-Build Contract, With A Guaranteed Maximum Price (GMP), For The Remaining Water, Storm Water, Landscape And Streetscape Improvements For The Project, With The Firm Of Lanzo Construction, Co. (Lanzo), Who Is The City's Contractor Currently Working On The Project Under The Construction Contract Authorized Pursuant To Invitation To Bid No. 060-2013TC (ITB); 3) Further Authorizing The City Manager To Terminate, For Convenience, The Remaining Portion Of The Current Construction Contract With Lanzo And Requiring, As A Condition Of The Negotiated Design-Build Contract, A Release Of All Claims Against The City Under The Former Contract; And 4) Where The Combined Sum Of The Negotiated Design-Build GMP And The Amount Negotiated As Part Of The Settlement Of The Existing Contract Shall Not Exceed \$7,070,348.74, Which Includes The \$2,586,940.74 Construction Award Value Of The Current Lanzo Construction Contract And The Proposed Design/Build Contract Amount Of \$4,483,408.

(Public Works)

ACTION: Resolution not adopted. Motion made by Commissioner Tobin; seconded by Commissioner Wolfson to approve the resolution; Voice-vote: 4-3; Opposed; Vice-Mayor Grieco and Commissioners Steinberg and Weithorn. Motion failed as it required a 5/7 vote. There was consensus to bring item back to the September 30, 2014 Commission Agenda. Lilia Cardillo to place on the Commission Agenda if received. **Eric Carpenter to handle.**

Eric Carpenter, Public Works Director, explained the item. They are in the process of constructing pump station No. 3, and outfalls to pump stations 1 and 2. While construction was underway, the contractors encountered a situation where the watermain that runs down 20th Street was deteriorated, and as a result, the entire street had to be torn up. Given that the street has been dug up, Mr. Carpenter recommends all necessary street improvements be done to that street, including the incorporation of an 18" storm water main to address the flooding in the surrounding Sunset Harbor area. In order to move forward, there would need to be a contract, and although the Lanzo proposal is at a higher cost than what the City usually gets, they have the opportunity of operating now while the street is open.

Discussion held.

Commissioner Tobin questioned the competency of the contractors stating they should have known better while digging to avoid damaging the 50-year-old water main.

Commissioner Weithorn expressed her concerns that the City may be paying this contractor too much, and asked whether Public Works was comfortable with their level of work, because there have been resident complaints about Lanzo contractors from previous works.

Mr. Carpenter stated that the City has a good relationship with the contractor, and that he and his staff are pleased with their work.

Vice-Mayor Grieco stated that this is the second time this contractor is making significant changes, and he is not sure how comfortable he is in approving the item.

Discussion continued.

Bruce Mowry, City Engineer, reiterated what Mr. Carpenter stated, they are pleased with the contractor's performance. He considers them honorable and recommendable. Additionally, he stated that he supports that contractors should make profits for a job well done.

Mayor Levine asked if they want to bring back to September 30, 2014, or do go out to bid. There was consensus to bring the item back to the next Commission Meeting, September 30, 2014.

8:23:56 p.m.

SUPPLEMENTAL MATERIAL 1: Memorandum

R7G A Resolution Accepting The Recommendation Of The City Manager To Reject All Bids Received, Pursuant To Invitation To Bid (ITB) No. 2014-305-YG, For Lifeguard Stands Replacement Project.

(Capital Improvement Projects/Procurement)

ACTION: Resolution 2014-28758 adopted. Motion made by Commissioner Malakoff; seconded by Commissioner Weithorn to approve the resolution; Voice-vote: 5-0; Absent: Mayor Levine and Commissioner Wolfson. **David Martinez and Alex Denis to handle.**

R9 - New Business and Commission Requests**8:24:18 p.m.**

- R9A Status Update From The September 10, 2014 Commission Discussion Regarding The Installation Of Speed Humps On Pine Tree Drive And La Gorce Drive.
(Public Works)

ACTION: Status update given.

Eric Carpenter, Public Works Director, stated that he is happy to say that the speed humps that are needed to complete the project have been ordered and will arrive October 6, 2014. They asked for a price and installation and if they get a reasonable price, they will move forward with the contractor. If they do not obtain a reasonable price with the contractor, they will do the installation with in-house staff and this may take longer. In answering Commissioner Weithorn, he added that the Public Works Department staff has been in constant contact with the neighborhood.

Vice-Mayor Grieco commended Mr. Carpenter for the great job done.

8:25:17 p.m.**8:33:07 p.m.**

- R9B Discussion And Referral To The Planning Board - Review Of A Waiver Of Development Regulations In A GU District For General Advertising Associated With The Installation Of Shinola Clocks.

(City Manager's Office)

ACTION: Discussion held. Item not referred. See motions below:

MOTION 1:

Motion moved by Commissioner Wolfson to refer item to the Planning Board to review proposed waiver of development regulation; seconded by Commissioner Malakoff. Voice vote: 4-2; Opposed: Commissioners Steinberg and Weithorn; Absent: Mayor Levine.

MOTION TO RESCIND:

Motion to rescind the vote referring item to the Planning Board made by Vice-Mayor Grieco; seconded by Commissioner Weithorn. Voice-vote: 4-2; Opposed: Commissioners Malakoff and Tobin. Motion to rescind carries.

Thomas Mooney, Planning Director, stated that this is an item referred by the City Commission to the Design Review and Historic Preservation Boards for design approval of two Shinola clock installations, and as mentioned in the referral memorandum in July, there was a potential issue with regard to the name Shinola constituting signage. In meeting with the City Attorney, they determined that the only way that the word Shinola could appear on the clocks, would be if the Commission were to waive the development regulations regarding general advertising signs. The other option would be to amend the City Code. This requires a 5/7 vote in order to waive the development regulation.

Discussion held.

Commissioner Malakoff stated that it would be a mistake to change the advertising code for the City, but for these clocks, they can make an exception by waiving the development rights.

Commissioner Weithorn will not vote in favor of waiving the advertisement provision.

Discussion held regarding waiver.

Thomas Mooney, Planning Director, stated that this item was placed on the Board Agenda next Tuesday and will come back to the October Commission Meeting.

MOTION 1:

Motion moved by Commissioner Wolfson to refer the item to the Planning Board to review proposed waiver of development regulation; seconded by Commissioner Malakoff. Voice vote: 4-2; Opposed: Commissioners Steinberg and Weithorn.

Discussion held.

Commissioner Weithorn explained that this item requires a 5/7 vote, and two Commissioners voted against this, out of six present, and she asked what is the purpose of referring to the Planning Board, since in fact the item will come back to fail.

Discussion continued.

Commissioner Wolfson asked who the no votes were. City Clerk Granado stated that the nay votes were Commissioners Steinberg and Weithorn, and Mayor Levine was absent, but is unable to vote on this item as he has recused himself on this item previously.

Discussion continued.

MOTION TO RESCIND:

Motion to rescind vote referring item to the Planning Board made by Vice-Mayor Grieco; seconded by Commissioner Weithorn. Voice-vote: 4-2; Opposed: Commissioners Malakoff and Tobin. Motion to rescind carries.

8:36:19 p.m.

R9C Reconsideration Of Second Reading On The Ordinance Providing Transfer Of Variance And Flood Plain Waiver Authority To The Design Review Board And Historic Preservation Board In Order To Provide A New Effective Date Of December 1, 2014.

(Requested by Commissioner Joy Malakoff)

ACTION: Motion made by Commissioner Malakoff; seconded by Commissioner Tobin to reconsider action taken at the September 10, 2014 Commission Meeting at second reading. Voice vote: 6-0; Absent: Mayor Levine. A new second reading, public hearing will be scheduled for September 30, 2014. Lilia Cardillo to place on the Commission Agenda if received. **Thomas Mooney to handle.**

Thomas Mooney, Planning Department Director, explained that this is a proposed reconsideration of the second reading of the Ordinance regarding the transfer of variance authority to the DRB and HPB approved by the City Commission at the September 10, 2014 Commission Meeting. They realized after its adoption, that there were a number of applications pending before the existing Board of Adjustment for October and November, and they requested that the effective

date of the Ordinance be moved to December 1, 2014, so as not to negatively affect those noticed.

Motion made by Commissioner Malakoff to reconsider the item; seconded by Commissioner Tobin. Voice vote: 6-0; Absent: Mayor Levine.

Discussion held.

5:46:57 p.m.

R9D Presentation By La Gorce Palace Condominium Regarding 6261 Collins Avenue.
(City Manager's Office)

ACTION: Discussion held.

Benjamin Baum, President of La Gorce Palace Condominium Association, stated that it has been difficult year, but with the City's resources, the noise and other issues have been resolved. He thanked the City Manager, Code Compliance and the Building Department for their work. The noise affected thousands of residents and everyone is very thankful. This problem took a year to solve, it had to go through the legal process, but as a City they are all family and on behalf of all residents, he thanked the City for committing their resources to help them, and especially to City Manager Morales.

7:17:47 p.m.

R9E Discussion Regarding The Selection Of One Of Two Options For The Remaining Work At The Venetian Islands Neighborhood Improvement Project.
(Capital Improvement Projects)

ACTION: Discussion held. Mayor Levine requested to negotiate a better deal with the construction company (Lanzo), and if unable to negotiate, give direction to Administration to put it out to bid. **David Martinez to handle.**

RECOMMENDATIONS:

- Administration to negotiate the contract for better pricing;
- Work with Finance regarding bonds;
- Utilize funds adopted for storm water increase to be applied to the project; and
- Coordinate with FPL in the future to map out location of electric lines or master services areas.

David Martinez, CIP Director, gave an overview and status update of the project. The Venetian Islands project was awarded in March 2013, with an additional change order, for a total of \$11.6 million to date. Construction began November 2013, and in February 2014, the Commission approved enhancing the stormwater criteria, which was passed on to the Venetian project that was under construction. The contract was placed on hold as it relates to the stormwater improvement while they continued with water main and other things in the project. They approved the redesign of stormwater system to incorporate enhancement, with six pump stations included. Since then, they had the plans completed and approved by the County and Public Works. The plans were provided to the contractor, and they are trying to work out a change order to complete this work. In the meantime, there has been the issue of the Venetian Island bridges that added an extra element to this calculation, as well as an interest from the Venetian Islands Homeowners Association to underground franchise utilities and they have asked for some time off on two of the islands to get the process going.

Mr. Martinez stated that they are presenting two options to Commission for direction: 1) To work out this change order with the contractor to complete the work including the stormwater system. They are looking at an additional construction cost of \$15 to \$16.5 million, to the already \$11.6 million that they have currently, bringing the total construction cost of the entire project in the \$26 to \$28 million range. This option was recommended as well by the Flood Mitigation Committee in September to proceed with Option No. 1. 2) In order to provide another alternative, they met with the contractor and the Venetian Island Association members. The second alternative is to complete Rivo Alto Island, which is already undergrounded, and then in approximately two years after the homeowners associations are able to work through the undergrounding process, come back and re-bid the job. The bridge issue is adding an excessive amount of money to the project to the tune of \$1.5 to \$2 million extra to the cost. The change order is of a large magnitude and is not competitively bid, so the City is paying premium price for these improvements contracted.

Discussion held regarding negotiations with the contractor and change order.

Mayor Levine suggested that they go out to bid or potentially lose the contractor.

Discussion continued.

Commissioner Wolfson explained that at the Flooding Mitigation Committee meeting there was support for the change order, and it was reported to them that it was not really significantly more than what they would probably get in a publicly bid process and because of that the Committee felt comfortable going forward. If this is a great deal more or there is still more money to shave, then they should not go forward. One of the big points is going forward with the pumps. He knows the Venetian Islands wish to underground utilities, and that is important. However, his concern is that the Venetian Islands have been redesigned at least three times. Commissioner Wolfson would like to go forward with the flooding mitigation project to the greatest degree possible, and then if they want to come back and do undergrounding in a future date, he has no problem with that. The problem is that undergrounding is the kind of thing that could delay the flooding mitigation so long, that they will never get to the flooding mitigation, and whether a change order is or going out to bid, it has to be done first.

Mayor Levine stated that the number one priority in the City is to keep it dry. The City cannot wait because the sea level rise is not waiting. They have to get this done, whether they put it out to competitive bid or they get much more aggressive with the contractor to get a much better price, they have to get the flooding and get the pumps in.

Discussion continued.

Commissioner Tobin stated that this was designed at one point, and they caught the Public Works Director who had not told them that the water lines were bad and tuberculated, and they had to redesign again but agrees with Mayor Levine that the Islands have to be made robust.

Discussion continued.

Mayor Levine asked if the City is prepared to put it out for bid, and he thinks if he were the contractor Lanzo, knowing the new culture in the City, he would sharpen his pencil if he was them, and the City reserves the right to put this out to bid.

Ahmad Khamsi explained that the residents have tried since the 1990's, and again in the 2000's to underground. Other islands that have undergrounded have not been subjected to the same restriction of not using ROW's by FPL. They had the support in 2004, they had the City's approval and then when push came to shove, they do not believe the City had their back. He thinks that there is a very slight disconnect. They have been working for a month and a half with this Administration, and they have had multiple meetings and are moving forward on their project to underground. At the HOA's last meeting, where there were dozens of homeowners present, there was a unanimous decision that the number one priority of the residents was undergrounding.

Discussion held.

Commissioner Wolfson explained that the Commission has to do the best thing for the community and that is going forward with construction and stop redesigning and soft costs.

Discussion continued.

Mr. Khamsi explained that they have a million dollars that the City right now is paying FPL to underground every end of the Islands; all six points will be undergrounded by FPL for the pumps.

Discussion continued regarding undergrounding versus flooding mitigation.

Commissioner Tobin stated that FPL will underground and give a guarantee hard bid, and then the HOA's have to get a certain majority of votes in the neighborhood in order to capture that reduction in their bid. This can happen quickly, the question is whether they will have the votes in order to pay for it. A lot of the impediments that they have had over and over for the last five or six years is that FPL will give a bid, and then the bid expires and thereby losing 40 to 50 discounts.

Discussion continued.

Commissioner Malakoff stated that flooding mitigation is in the HOA's own self-interests, and residents who own homes on these Islands, when they see the NOAA maps of the City, the areas of most active flood are in red, and she can guarantee that all the Venetian Islands are in red. The gentleman (Mr. Khamsi) is saying that it is more important to underground utilities for aesthetic purposes, than it is to protect the homes from flooding; she thinks that it is not in their best interest.

Discussion continued.

Mayor Levine agreed with the need for undergrounding, but stated that they are not going to delay this flooding mitigation program in Miami Beach and across the country, and explained that flooding affects all of Miami Beach and it affects insurance rates.

Commissioner Wolfson clarified that the City Commission has given clear direction for Administration to negotiate the contract for better pricing.

David Martinez, CIP Director, explained that there are approximately \$9 million left unencumbered in the budget, so what is going to happen is once the fiscal year starts, they are going to have to go through a budget amendment.

Discussion held.

Commissioner Wolfson explained that they just passed a massive storm water undergrounding and he thinks this Commission's vision is to utilize the moneys that they passed for storm water increase to be applied to this, since it part of the overall remediation.

Discussion continued.

Kathie G. Brooks, Assistant City Manager, added that they also have to work with Finance, because those bonds have not yet been sold.

Commissioner Tobin suggested that as part of the contractor's charge, they can leave the area where they are going to drop these electric lines in the future, and whether FPL can tell them the location of the master service areas, so when they do get around to do the undergrounding, they have the master areas where the lines are going to get pulled from and they also have the maps where they know they are going to direct the electric. There may be a cost savings on their job and speed them up when they do their electric by coordinating it now.

Mayor Levine requested to negotiate a better deal with the construction company or the direction is to put it out to bid. **David Martinez to handle.**

5:58:18 p.m.

ADDENDUM MATERIAL 2:

R9F Discussion Regarding Planning Department Evaluation Of The Fee In Lieu Of Parking Program ("PIF").

(Planning)

ACTION: Discussion held. Motion by Vice-Mayor Grieco to bring item back with collection options to the September 30, 2014 Commission Agenda; seconded by Commissioner Weithorn; Voice-vote; 7-0. Lilia Cardillo to place item on the Commission Agenda. **Joe Jimenez to handle.**

RECOMMENDATIONS:

- Pursue escrow money first, secondly significant amounts, see what is feasible after that, and look into interest fees accumulated;
- Bring reasonable collection program to the September 30, 2014 Commission; and
- Commissioner Tobin to meet with the City Manager on a one-to-one basis regarding possibility of subpoenaing former City Manager.

Jimmy L. Morales, City Manager, commended the Planning Department staff, especially Thomas Mooney and Carmen Sanchez, who under the leadership of Assistant City Manager Joe Jimenez were asked to take a hard look at this program and identify the deficiencies found in the audit and other issues that had been raised, and they have the findings in a detailed report. The Administration has taken corrective actions to address the problems by billing the current amount dues and for next year as well. This is a retroactive issue in terms of funds that were not collected in the past.

Joe Jimenez, Assistant City Manager, pointed out the exhausting efforts of the Planning Department, not only of Thomas Mooney, Planning Director, and Carmen Sanchez, Assistant Planning Director, who reviewed the administrative guidelines and the administrative processes and worked long hours even on weekends for over nine months, but he also recognized their staff, Rogelio Madan, Tui Munday, Steven Green, Lydia Sacher and Mario Pina for their efforts and dedication in creating this report.

Mr. Jimenez explained that the fee in lieu of parking is when a developer cannot provide the required parking on the site, whether it is new construction or redevelopment, there are two choices: new construction pays \$35,000 per space and the City uses that to mitigate the impact; or with a redevelopment and there is a higher impact, it is \$700 per space per year. The new construction impact is collected at the time of applying for a building permit, and the annual fee is collected in June or October to coincide with the fiscal year. Unfortunately, as some of you may have read in the paper today, these fees had not been regularly collected for a period of about 19 years. It is about \$19 million of uncollected funds that they uncovered. Mr. Jimenez wants to congratulate the Planning staff, under the leadership of the City Manager, for uncovering this. He wants to focus on the corrective actions taken. He introduced Carmen Sanchez to read the corrective actions and findings into the record.

Carmen Sanchez, Assistant Director of the Planning Department, stated that the Planning Department has entered active customers into Eden, the City's financial system, which had never been entered before, so there were no official records of them actually being billed. They have billed 44 accounts to the sum of \$251,000. The Department will invoice effective October 1 the remainder of the 2014/2015 year, 34 or more accounts. They are also looking to record all the estimated amounts that will be due in the future in the orders, and have added a field in Permits Plus to identify those numbers, so that there is a record when they pull the permit, they will understand what that number is going to be. No Certificate of Occupancy or Certificate of Use will be approved until the fees are paid. They have created a program to automate the calculation of the fees built into the approval hierarchy, so if a junior member of the Planning staff needs to make an adjustment it cannot be done without a senior member's approval. They also have acquired permanent and temporary staff to actually help with the problem and put all these records into the financial system, and have complied with Section 140-132 by conducting a study and making recommendations to the City Commissioner regarding the fee. They will seek approval from the City Commission to standardize the invoicing cycle. Presently it is in June, it will be brought back to the fiscal year in October. They were looking for cross-reference and incorporate certain elements of the parking in lieu fee into the BTR in order to have cross-referencing and audit trails.

Mayor Levine thanked staff and stated that it is important to emphasize that they have an entire new team at the City and new elected leaders, this new team was put in place to find any of these issues that have happened previously. He thanked everyone for all the time and effort spent in finding these moneys and for working together to figure out how to get it. The question for this Commission is if they want to instruct staff to collect this money and he asked the City Attorney what the statute of limitations is on collecting.

Raul J. Aguila, City Attorney, stated that the statute of limitations on collecting debts or contractual obligations is five years.

Discussion continued.

Commissioner Tobin suggested not discussing their legal strategies at this juncture. He added that an affirmative defense in a contract action would be to raise the statute of limitations, but whether they will issue building permits or lien people, whether or not they will give those Certificates of Occupancy or not, that is something the Office of the City Attorney is reviewing.

Raul J. Aguila, City Attorney, agreed with Commissioner Tobin in terms of the direction given, and those defenses that can be raised by the parties owing the money, they City can proceed to collect on these cases.

Discussion held.

Commissioner Wolfson explained that this is an effort to collect \$19 million between small businesses and property owners in the City, and he cautioned his colleagues to review this matter carefully. This is largely the fault of the prior Administration. There is a situation where staff was not collecting the money. These are parking impact fees that people pay and get assessed fees for the parking impact. The concept of a parking impact fee is nebulous to begin with. Before they go out, assess, and try to collect \$19 million against small businesses and landowners in the City, he thinks they should think carefully about what the impact is.

Vice-Mayor Grieco stated that for example a business on the report must have known that they had to pay \$720,000 a year, every year since 2007. It is the fault of the previous Administration but also of the business owners.

Discussion continued.

Mayor Levine stated that when a business wants to open in Miami Beach, the way it works is that they provide the parking or pay into the parking impact fee. This wonderful program allows businesses to open by paying in lieu of providing parking. There are certain businesses on the list that are already out of business, they will never get to collect from them; there are certain other businesses that potentially under City staff leadership will have to negotiate, and others who may need to pay the full fee. He suggested giving staff direction to come back with a reasonable collection program.

Discussion continued.

Commissioner Wolfson agrees that they should collect to a certain degree, but he thinks they need to be reasonable and come up with a reasonable collection program that accounts for some of the idiosyncrasies of this parking impact program.

Discussion continued regarding failed businesses and parking impact fees.

Commissioner Weithorn asked about the amount paid on escrow, and stated that she assumes that they will go after those escrow funds immediately.

Assistant City Manager Joe Jimenez stated that it is their belief, and the City Attorney has confirmed this belief, that these escrow agreements are deemed void and invalid because they were entered into by employees who are not contemplated by the Code. This item will be placed on the Commission Agenda on September 30, 2014.

Commissioner Weithorn stated that the preponderance of this money is big accounts that gladly would write checks for \$250,000 and \$350,000 knowing that they owed \$700,000. She thinks they should go after escrow money first, and then they should go after every single significant amount of money. In her opinion, it is not worth the City's collection efforts to pursue amounts under \$5,000, but the City Commission has to make that decision. She stated people knew they should have paid, and we should not give people breaks when they do things wrong.

Mayor Levine stated that the system is challenging and it is hard to collect when there may be businesses that have failed. He suggested attaching the debt to the landlord, who also co-signs for those impact fees.

Discussion continued.

Motion made by Vice-Mayor Grieco to go after the escrow money and present the City Commission, perhaps at the September 30, 2014 Commission Meeting, with a proposed program, with an understanding that they want to go after the escrows, then the big ticket items, and then see what else is feasible after that. He asked if there is anything in the Ordinance about interest or late fees.

Discussion continued.

Commissioner Wolfson stated that three internal reports were never put on the Agenda by the prior Administration, and he stated that it is alarming. He asked what his colleagues think what the appropriate action to take is.

Commissioner Tobin stated that he thinks the reason this is in front of them is because the present Administration wanted to bring this issue to their attention as soon as possible and the Administration will figure out what how to proceed. He added that former City Manager Gonzalez did not make the Commission aware of these reports. The City Commission never got this information. He added that it is a credit that they have a City Manager now that is more interested in the health and welfare of the body as opposed to the cosmetics. In addition, whether the Federal investigation is ongoing now into the Miami Beach Community Development Corporation, or whether it was the Building Department or Code Enforcement Department corruption scandals, or the Procurement arrests, these were discussed for years. For a long time, there was little accountability. It is important to understand that there are three internal audits, and maybe they ought to impanel under Section 201 of the Charter (Investigative Powers) and maybe they should subpoena the former City Manager and ask him. He asked City Manager Morales for his recommendation.

Commissioner Weithorn explained that the three sitting Commissioners (Tobin, Weithorn and Wolfson) were the ones who voted to change the former City Manager. From a financial standpoint, she does not think is worth to go to the ends of the earth to get every answer. She offered a friendly amendment to the motion to have the report presented to the Finance and Citywide Projects Committee, or sent via LTC.

Vice-Mayor Grieco moved the item as he had previously stated, to come up with reasonable collection program to the September 30, 2014 Commission Meeting; seconded by Commissioner Weithorn; Voice vote: 7-0.

Commissioner Tobin asked if they could subpoena City Manager Gonzalez on this, and find out how \$19 million went uncollected.

Mayor Levine suggested that Commissioner Tobin meet with the City Manager on this on a one-to-one. **City Manager's Office to handle.**

End of Agenda

Meeting adjourned at 8:37:39 p.m.